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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,897	12/10/1999	TOM GIAMMARRESI	533/047	9422

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EXAMINER

TRAN, HAI V

ART UNIT

PAPER NUMBER

2623

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/458,897	Applicant(s) GIAMMARRESI, TOM	
	Examiner Hai Tran	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/05/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-21 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/05/2006 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, and 3-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 and 3-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldszmidt et al. (US 6195680) in view of Ohran et al. (US 5812748).

Claim 1. A method of distributing and sharing processing loads and increasing fault tolerance between provider equipment and subscriber equipment of an interactive information distribution system (summary; Col. 3, lines 12-55), comprising the steps of:

receiving, at a headend, a request for video information from said subscriber equipment (Col. 5, lines 25-31; Col. 6, lines 40-60);

executing a video session from at least one of a plurality of managing modules on a primary head-end controller at said headend (Control server 1.1 of Fig. 1, col. 6, lines 7-31 in which is described in Col. 9, lines 48-52 of US 5918017 incorporated by reference in Goldszmidt, see Fig. 10 with two of Gateway/TCP-Router nodes, 1<sup>st</sup> one is 1050 configures as a primary and the 2<sup>nd</sup> one 1030 as a backup );

dedicating, at said head-end, at least one secondary headend controller (Control server 1.1 of Fig. 1, col. 6, lines 7-31 and the 2<sup>nd</sup> Gateway/TCP-Router node, i.e., 1030 as a backup which is described in Col. 9, lines 48-52 of US 5918017 incorporated by reference in Goldszmidt) respectively having said at least one managing module (see Col. 9, lines 48-52 of US 5918017 with el. 320, 340 and 1020) as a resource for executing said video session,

wherein said executing said video session comprises processing session-state data of said video session using a managing module (Manager 320; see Col. 7, lines 3-Col. 9, lines 8 in which is further described in the configuration of Fig. 10 of

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an encapsulated cluster with high availability Gateway/TCP-Router node, Col. 9, lines 48-60 of US 5918017 incorporated by reference in Goldszmidt) associated with said primary head-end controller;

storing said session-state data from said executed video session on at least one storage device (Col. 9, lines 66-Col. 10, lines 22 of US 5918017 incorporated by reference in Goldszmidt); and

streaming, from a stream server (Fig. 1, el. 1.2 and 1.3; Col. 5, lines 32-35), said video information to said requesting subscriber equipment during a normal mode of operation.

Goldszmidt does not clearly disclose concurrently processing session-state data of the video session using a distributed managing module associated with each of said primary head-end controller and said at least one secondary head-end controller.

Ohran discloses, the session-state processing is processed through distributed managing module concurrently on the primary server and the secondary server, wherein the distributed managing module associated with each of the primary server and the secondary serve (Col. 11, lines 51-Col.12, lines 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goldszmidt to have distributed managing module concurrently active on both servers, as taught by Ohran so to fully utilize the resources of both redundant servers, as suggested by Ohran (Col. 12, lines 1-6).

Claim 3. The method of claim 1, Goldszmidt further discloses wherein said executing said video session further comprises executing said video session on at least one non-distributed managing module (Executor 340, Fig. 5, Fig. 10, and Col. 4, lines 10-Col. 5, lines 13 of US 5918017 incorporated by reference in Goldszmidt) associated with said primary head-end controller.

Claim 4\_3, as discussed in claim 1, Goldszmidt in view of Ohran further discloses the steps of:

processing said session-state data through at least one distributed managing module concurrently on the primary head-end controller and the at least one secondary head-end controller and the at least one secondary head-end controller, wherein the at least one distributed managing module on the primary head-end controller and the at least one secondary head-end controller is in active mode ("co-standby", see Ohran Col. 11, lines 52-65) and

processing the session state data from the at least one non-distributed managing module on the primary head-end controller (Executor 340, Fig. 5, Fig. 10 of US 5918017 incorporated by reference in Goldszmidt), wherein the at least one non-distributed managing module on the primary head-end controller is in an active mode (Col. 6, lines 50-57 and Col. 9, lines 48-60 of US 5918017 incorporated by reference in Goldszmidt) , and wherein the at least one non-distributed managing

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module on the secondary head-end controller is in a standby mode (Col. 6, lines 20-31 in Goldszmidt).

Claim 5, Ohran further discloses a method comprising the steps of:

processing said session-state data produced by said primary headend controller via said at least one secondary headend controller in a failure mode of operation, wherein said primary head-end controller becomes inoperative (Col. 11, lines 64-67).

Claim 6, Goldszmidt (Col. 6, lines 16-31 and see Col. 10, lines 65-Col. 11, lines 40 of US 5918017 incorporated by reference in Goldszmidt) in view of Ohran further discloses comprising the steps of:

streaming video information from a stream server to an access controller in said normal mode of operation, wherein said primary head-end controller manages said video session between said stream server and at least one access controller; and

streaming video information from said stream server to said access controller in said failure mode of operation, wherein said secondary head-end controller manages said video session between said stream server and said access controller.

Claim 7, Goldszmidt inherently stores the session-state data produced by said primary head-end controller on at least one non-volatile storage device coupled said primary headend controller (Col. 9, lines 66-Col. 10, lines 5);

Goldszmidt does not disclose storing said session-state data produced by said at least one secondary head-end controller on at least one non-volatile storage device coupled to said primary head-end controller.

Ohran (Fig. 7) discloses the session-state data produced by said primary head-end controller (server 2310) on at least one non-volatile storage device (2314) coupled said primary headend controller (server 2310) and storing said session-state data produced by said at least one secondary head-end controller (2320) on at least one non-volatile storage device (2315) coupled to said primary head-end controller (Col. 12, lines 7-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goldszmidt to have the primary Gateway/TCP-Router node to store both session-state data from the secondary Gateway/TCP router and from itself, as taught by Ohran, so to increase the high-availability of the redundant system by avoiding the substantial performance degradation experienced by the non-failing server during recovering mode, as suggested by Ohran (Col. 3, lines 56-Col. 4, lines 3).

Claim 8, Goldszmidt in view of Ohran (Col. 12, lines 7-16) further discloses replicating said stored session-state data from one of said plurality of storage devices coupled to said primary head-end controller, to each of the remaining



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storage devices of said plurality of storage devices coupled to said at least one secondary head-end controller; and

wherein said at least one secondary headend controller retrieves said session-state data processed by said managing modules of said primary head-end controller (Ohran; Col. 12, lines 7-16) for continuing said video session with said subscriber equipment (Col. 10, lines 5-Col. 11, lines 40 of US 5918017 incorporated by reference in Goldszmidt).

Claim 9, Goldszmidt in view of Ohran, as discussed in claim 7, does not clearly disclose the use of a "volatile memory device coupled to said primary head-end " for storing said session-state data produced by said primary head-end controller and storing said session-state data produced by said at least one secondary head-end controller on said volatile memory device coupled to the primary headend controller.

Official Notice is taken that using volatile memory, i.e., RAM, for the purpose of caching data is notoriously well known the art for the benefit of increasing processing performance because the latency time to access data stored in the cache (volatile memory) is much less than the latency time to access data stored in the non-volatile memory (Disk Drive). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goldszmidt in view of Ohran to use volatile memory instead of non-volatile memory so to increase performance to have the primary Gateway/TCP-Router node to store both session-

state data from the secondary Gateway/TCP router and from itself, as taught by Ohran, so to further increase the performance time and the high-availability of the redundant system during recovering mode.

Claim 10, limitation “replicating said stored session-state data from said volatile memory device coupled to said primary headend controller, to at least one volatile memory device coupled to said at least one secondary head-end controller; and wherein said at least one secondary head-end controller retrieves said session-state data processed by said managing modules of said primary head-end controller for continuing said video session with said subscriber equipment” is further met by Goldszmidt in view of Ohran, as discussed in claims 10 and 8, in which Goldszmidt in view of Ohran’s system support concurrent mirroring and consistency between the fault-tolerance servers.

Claim 11, Apparatus claim 11 is analyzed with respect to method claim 1.

Claim 12, Apparatus claim 12 is analyzed with respect to method claim 9.

Claim 13, Goldszmidt further discloses a primary head-end controller and at least one secondary head-end controller (Control server 1.1 of Fig. 1, col. 6, lines 7-31 in which is described in Col. 9, lines 48-52 of US 5918017 incorporated by reference in Goldszmidt, see Fig. 10 with two of Gateway/TCP-Router nodes, 1<sup>st</sup> one is 1050 configured as a primary and the 2<sup>nd</sup> one 1030 as a backup);

Claim 14, Goldszmidt further discloses in a normal mode of operation, the primary head-end controller interacts with the stream server to provide the video information to the subscriber equipment, and the at least one secondary head-end controller remain in a standby mode; and in a failure mode of operation, the primary head-end controller is inoperative, and at least one secondary head-end controller interacts with the stream server to provide video information to the subscriber equipment (Fig. 1; Col. 5, lines 22-65 and Col. 6, lines 20-31 in Goldszmidt).

Claim 15, Goldszmidt further discloses at least one non-distributed managing module, for processing session state data by the primary head-end controller (Executor 340, Fig. 5, Fig. 10 of US 5918017 incorporated by reference in Goldszmidt).

Claims 16 and 17, apparatus claim 16 is analyzed with respect to method claims, 5, 6 and 8.

Claim 18, in view of the above discussion, Ohran further discloses the use of a centrally networked storage device coupled to said primary server and a secondary server, for centrally storing the session state-data (see Fig. 2; Col. 6, lines 54Col. 7, lines 6) for the purpose of sharing.

Claim 19, in view of the above discussion, Ohran further discloses a plurality of local storage devices, coupled to the primary server and the secondary server, for locally storing the session-state data produced by the plurality of managing module (see Fig. 7).

Claim 20, apparatus claim 20 is analyzed with respect to method claim 8.

Claim 21, Goldszmidt (Col. 5, lines 50-Col. 6, lines 31) in view of Ohran (Col. 11, lines 52-67) further discloses in a failure mode of operation, the at least one secondary server retrieves the replicated session-state data stored on the remaining plurality storage device, for continued interaction with the stream server to provide the video information to the subscriber equipment.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht  
03/16/2006



**HAITRAN**  
**PRIMARY EXAMINER**